Occupier Affidavit Addressing the Start of Allegedly Adverse Family Occupation

Educational sample 192 | Nairobi

Educational reconstruction from a reported Kenyan judgment. This is newly drafted text, not an original court filing and not a matter handled by our team. Identifying details are replaced with bracketed fields. Verify the facts, current law, jurisdiction and court directions before signing, swearing or filing.

Reconstructed formal document

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT NAIROBI

CAUSE CIVIL SUIT OR APPLICATION NO [correct reference]

[CLAIMANT PLAINTIFF OR APPELLANT] v [RESPONDENT OR DEFENDANT]

AFFIDAVIT

1. I am [occupier], the Applicant. I identify the land and the precise portion and leasehold interest claimed from the title material [exhibit and pages]. I state my own entry date as [verified date] and distinguish it from my family’s earlier occupation.

2. My grandparents occupied the land before my entry. The source record did not establish whether their occupation was adverse or permissive. In a real affidavit I must set out the facts I know about its origin and identify the source of any information about periods I did not witness.

3. The date and acts by which my possession allegedly became inconsistent with the owners’ rights are [actual particulars]. Earlier residence alone does not establish that date. Any permission, tenancy, acknowledgement of title, departure or interruption is disclosed accurately.

4. The continuous acts relied on are [verified acts with dates and evidence]. Photographs, utility records, neighbours or other material must exist and be authenticated before being exhibited. This educational specimen supplies none of the independent evidence missing from the source case.

5. I identify how my occupation was visible to the owners and its extent, without equating their physical absence with abandonment of title. My own knowledge and information sources are distinguished. The affidavit must be completed truthfully and sworn before an authorized Commissioner for Oaths.

SWORN by [deponent] at [place] on [date]. Signature [ ]. BEFORE ME [Commissioner for Oaths]. This sample has not been sworn.

Use and evidence notes

Identify the deponent, authority, personal knowledge and each source of information. Index and authenticate actual exhibits; complete every factual field truthfully. This specimen is unsworn and has no exhibits. Obtain the applicable leave for a further affidavit, and complete a valid jurat before an authorized Commissioner for Oaths. An affidavit must not be used to invent missing evidence or put submissions in a witness mouth.

Supporting material schedule: [document date]; [author or custodian]; [description]; [bundle page]; [authenticating witness]; [admission or permission]. Attach only genuine available records and mark missing records accurately.

Source and procedural limits

An originating summons sought the remaining leasehold interest in Nairobi land. The claimant alleged occupation from February 2011 and more than twelve years of exclusive possession without permission. His affidavit also referred to grandparents' earlier occupation. The owners did not appear after substituted service. A further affidavit and official search confirmed registered proprietors, but independent evidence of commencement, continuity and adverse character was lacking.

The Court dismissed the adverse-possession claim without an order for costs. Family occupation made the start and nature of possession uncertain; no sufficient evidence showed when it became adverse to the owners. An unopposed claim still required proof. Residence for thirteen or fourteen years, an official search and assertions of fencing were insufficient on this record.

Limitation of Actions Act sections 7, 13, 17 and 38, Land Registration Act section 28(h), and Order 37 rule 7 require careful application. Attach the prescribed title material and identify the claimed land and leasehold remainder. Prove when possession became non-permissive and adverse, its extent, visibility and continuity. Do not treat a landowner's absence or a non-appearance as automatic loss of title, or use this specimen to revive the dismissed claim.

[2025] KEELC 7920 (KLR) — 13 November 2025. Original judgment: https://sheriahub.com/cases/ke/caselaw/mark-v-mmumbuongo-another-2025-keelc-7920-klr

The original decision may identify participants. The specimen replaces their identifying details. A source decision is not proof that a draft was filed, that an allegation succeeded, or that the same result will follow in another case.